IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Writ Petition No.137 of 2003.

Date of decision:27.12.2005.

M/s.Soffimat SA **….Petitioner.**

Versus

State of H.P. & Another **….Respondents.**

Coram

The Hon'ble Mr.Justice K C Sood,J.

Whether approved for reporting ?[1]

For the Petitioner: **M/s.Vinod Sharma & R.Manta, Advocates.**

For the Respondents: **Mr.M.S. Chandel, Advocate General with Mr.Ashok Chaudhary, Additional Advocate General.**

K C SOOD,J.(Oral)

The petitioner M/s.Soffimat SA, a Company with its registered office at Paris (France) a subsidiary company – "Sobra Power" with its registered office at Chandigarh, has filed this petition for appropriate directions to the State Government including quashing the impugned order of termination of Memorandum of Understanding and Supplementary Memorandum of Understanding in respect of Bharmour (45MW) and Harsar (60MW) Projects and forfeiture of the bank guarantees (Annexure PAB).

It appears, in June, 2000, the petitioner entered into a Memorandum of Understanding ("MOU" for short) with the respondent-State for investigation and

---

[1] ***Whether the reporters of Local Papers may be allowed to see the judgement?***

implementation of Harsar Hydro Electric Project (60MW) as also Bharmour Hydro Electric Project (45MW) (Annexures PB & PC). In April, 2001, a notice was served on the petitioner by the respondent-State for cancellation of MOU on the ground of lapses on the part of the petitioner-Company under the terms of MOU. The State Government in September, 2001 terminated the MOU and invoked the guarantee executed by the petitioner-Company. The petitioner made representation against the termination of the MOU. In November, 2001 State Government decided to have a meeting with the petitioner-Company which was held on 7th December, 2001 and pursuant to certain decisions taken in the meeting cancellation of the MOU was withdrawn in February, 2002. It was mutually decided to settle and execute a Supplementary Memorandum of Understanding for the execution of the works. However, Supplementary Memorandum of Understanding for some reasons or the other were not prepared by the State, though in April, 2002 the respondent-State asked the petitioner to furnish some further information. The requisite information was furnished in May, 2002. On 12th July, 2002 Supplementary Memorandum of Understanding was penned by the parties. The detailed Project reports were not submitted by the petitioner, therefore, the petitioner was asked to show cause as to why the Supplementary Memorandum of Understanding be not cancelled. Reply was filed by the petitioner. The Supplementary Memorandum of Understanding was terminated by the respondent-State. Simultaneously, the respondent-

State issued notice inviting tenders from eligible bidders for two Projects which were subject of MOU with the petitioner.

It is in this background that the petitioner approached this Court in this petition under Article 226 of the Constitution.

The petitioner was granted interim stay restraining the respondents-State from entering into fresh Memorandum of Understanding with any party in respect of the two Projects i.e. Bharmour(45MW) and Harsar (60MW) HEPS. However, the stay was vacated by a Division Bench of this Court on December 23, 2004.

Dis-satisfied, petitioner approached the Supreme Court. The Supreme Court did not interfere with the interim order passed by the High Court, however, directed that petitioner would be at liberty to approach the High Court for disposal of the writ petition stating that the detailed project report has already been prepared by the petitioner and the State Government be asked to study the detailed project report and if found feasible reconsider the matter and grant the project to the petitioner subject to such terms as deemed fit.

It is in view of this order of the Supreme Court that the petitioner has filed the present application ***(CMP No.355 of 2005).*** In this application the petitioner says that petitioner has already prepared the detailed project report which may be sent to the respondent-State.

In view of the specific orders of the Supreme Court, it is directed that the detailed project report,

as prepared by the petitioner, shall be submitted to the State Government by the petitioner within one week from today. On receipt of such detailed project report, the same shall be studied by the State Government within six weeks thereafter and if found feasible shall reconsider the matter and grant the project to the petitioner subject to such terms as deemed fit.

The writ petition is disposed of in the above terms. However, liberty is reserved to the petitioner to approach this Court if the necessity so arises.

Dasti copy on usual terms.

December 27, 2005 **(K C Sood)**
(aks) **Judge**